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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,163	10/698,163 10/31/2003		Lance E. Nunley	RD8285USNA	9855
43693	7590	03/13/2006	EXAMINER		
		AMERICA S.A.R.I	TENTONI, LEO B		
THREE LITTLE FALLS CENTRE/1052 2801 CENTERVILLE ROAD				ART UNIT	PAPER NUMBER
WILMING		-		1732	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)				
		10/698,163	NUNLEY ET AL.				
	Office Action Summary	Examiner	Art Unit				
		Leo B. Tentoni	1732				
Period fo	The MAILING DATE of this communication ap or Reply	opears on the cover sheet with the o	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1)	Responsive to communication(s) filed on						
·		is action is non-final.					
'-	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
,	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims		•				
4)🖂	4)⊠ Claim(s) <u>1-12</u> is/are pending in the application.						
	4a) Of the above claim(s) is/are withdrawn from consideration.						
	Claim(s) is/are allowed.						
6)	Claim(s) is/are rejected.						
7)	Claim(s) is/are objected to.						
8)⊠	Claim(s) $\underline{1-12}$ are subject to restriction and/or	election requirement.	•				
Applicati	on Papers						
['] 9)□ [.]	The specification is objected to by the Examin	er.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
	Applicant may not request that any objection to the	e drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).				
	Replacement drawing sheet(s) including the correct	ction is required if the drawing(s) is ob	jected to. See 37 CFR 1.121(d).				
11)	The oath or declaration is objected to by the E	examiner. Note the attached Office	Action or form PTO-152.				
Priority u	nder 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
2) 🔲 Notice	(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P	(PTO-413) ate ratent Application (PTO-152)				
Paper No(s)/Mail Date 6) Other:							

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, drawn to a melt extrusion spinneret plate, classified in class 425, subclass 464.
- II. Claims 5-11, drawn to a process of making a nylon filament, classified in class 264, subclass 210.8.
- III. Claim 12, drawn to a nylon filament, classified in class 428, subclass 364.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus such as an apparatus including a quench chamber, draw rolls and a winding bobbin. The apparatus as claimed can be used to practice another and materially different process such as a process of making polyester filaments.

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3. Inventions I and III are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a materially different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the product as claimed can be made by another and materially different apparatus such as an apparatus including a film extruder, an embosser for reshaping the film to have a flat cross-section adjoining two circular cross-sections and a slitter for slitting the film at the flat cross-sections to form filaments of circular cross-section.

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4. Inventions II and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as a process including the steps of forming a film, reshaping the film to include a flat

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cross-section between two circular cross-sections and slitting the film at the flat cross-section to form circular filaments.

- 5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior

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art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo B. Tentoni

Leo B. Tentoni Primary Examiner Art Unit 1732

lbt